



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,805	09/26/2000	Scott C. Harris	RTA/SCH	3717

23844 7590 06/18/2008

SCOTT C HARRIS
P O BOX 927649
SAN DIEGO, CA 92192

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 06/18/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/669,805	Applicant(s) HARRIS, SCOTT C.	
	Examiner ERNESTO GARCIA	Art Unit 3679	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 11 April 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☒ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/Daniel P. Stodola/
Supervisory Patent Examiner, Art Unit 3679

Continuation of 10. Other (including any explanation in support of the above items):

Re: item 4: The concise explanation is to be about the claimed invention and not a discussion of what particular pages and line numbers of the specification describe/discuss. Accordingly, appellant has not properly mapped out claim 2. Rather, appellant seems to have provided a summary explanation of the disclosure by discussing what particular pages and line numbers of the specification describe. The Summary of the Claimed Subject Matter is not to include a summary of the disclosed invention. Note that the only instance of the correct approach appears in the first paragraph of this section when mapping claim 2. Further, it is noted that Appellant makes reference to "the system" but such is not present in claim 2 (the claim is drawn to a method). Accordingly, this should be deleted. Further, the explanation of the claimed subject matter of claim 2 mentions "a server" and "the amount necessary to win the current auction until outbid". However, neither of these features have been recited in claim 2 and thus the discussion of these features is inappropriate for the section that is to define and map only the "claimed" subject matter. Further, the concise explanation fails to map out lines 8-13 of claim 2.

With respect to claim 13, the appellant states that "the first computer is described as a remote terminal" at page 7, line 4. However, this is not a feature in claim 13 and should be deleted. As a side note, it appears that the users are remote rather than the first computer. Further, where is the explanation/mapping of the limitation "that are remote from a location of said first computer, to bid on an item" in lines 4-5? This is not found in the concise explanation. The reference to "but does not display the highest bid" at page 7, line 12, is noted. However, such limitation is not found in claim 13 and therefore the discussion thereof as a part of the "claimed" subject matter of claim 13 is improper. Claim 13 states "said first computer displaying a current winning amount, which is an amount that exceeds all the other bids on the item, but which may be less than, or the same as, said highest bid". Further, if the current winning amount is the same as said highest bid as claimed, wouldn't this be contrary to what the appellant is describing as "does not display the highest bid" as currently set forth in the brief? Further, claim 13 fails to concisely explain the subject matter describing the relationship between the bids, in particular the language "depending on ... exceed said highest bid" in lines 11-15.

The reference to "see page 4 lines 1-13" at the bottom of page 7 should be enclosed in parentheses, presented as a separate sentence or separated from "maximum bid" by a comma.

With respect to claim 25, the brief fails to identify the first computer and the "other computer", i.e., the second computer, similarly done as the previous independent claims. The explanation fails to mention the "other computer". Further, the description "the secret maximum bid" is not found in claim 25, rather the claim sets forth "said secret maximum bid amount".

Re: item 5: Appellant lists "Have the drawings been properly corrected" as a "ground of rejection" to be reviewed on appeal. This "issue" is neither a "ground of rejection" nor is it an issue subject to review by the Board of Appeals. Note also that "objections" and entry/non-entry of amendments are not subject to review by the Board. Accordingly, such should not be listed as a ground of rejection in this section. Further, Appellant makes several incomplete references to rejections under Section 112. The complete statutory basis of the ground of rejection is required when stating what the ground of rejection is that is to be reviewed. This also includes identifying the particular paragraph of Section 102. Further still, the statement of the ground of rejection is supposed to be just that, a statement, and not presented in the form of a question.

Re: item 6: Appellant's brief fails to provide separate subheadings for the claims that apparently are being argued separately under the various respective grounds of rejection.

Re: item 9: Appellant indicates that the Related Proceedings Appendix is being "attached". A review of the brief filed on April 11, 2008 reveals that nothing has been attached. It appears appellant inadvertently failed to attach the Related Proceedings appendix.